

mammals, wherein the cells express cell markers selected from the group consisting of at least ... desmin, CD34, and Bcl-2; a method of augmenting or bulking muscle tissue in a mammal; and a method of treating a weakness or dysfunction in a muscle tissue) for further prosecution in this application. Applicants reserve the right to timely file one or more divisional patent applications covering the subject matter of the non-elected claims.

In addition, at pages 3-4 of the September 28, 2001 communication, the Examiner has required that applicants elect a single species, depending upon the claim group elected for examination. Accordingly, to provide a complete response to the species election accompanying applicants' election of the claims of Group 1, the applicants elect urological tissue with respect to claim 17 and its dependents. The claims readable thereon are claims 17-19, 23 and 25-27. With regard to claim 45 of Group I, the applicants elect urinary sphincter tissue; the claims readable thereon are claims 45-50 and 53-55.

The election is made with traverse. The claims of Group 1 all pertain to novel muscle-derived progenitor cells used in methods to augment or bulk up muscle tissue. Accordingly, applicants' claims to the methods of Group 1 cover tissue types which can be suitably augmented or bulked up by practice of the claimed methods. Consequently, a search relating to the methods should encompass the several muscle tissue types for which the method is useful. The number of muscle-related tissue types is not believed to be large; therefore, restriction into one species of tissue is believed to unduly limit applicants' broadly applicable method. To search a limited number of specified tissue types encompassed by the practice of the claimed methods of augmenting or bulking muscle tissue, or treating a muscle tissue weakness or

dysfunction, should not place an undue burden on the time and efforts of the examiner for searching and examining the elected claim group. A search of the Group 1 claims, including all of the specified tissue types that are suitable for use as covered by the claims, is thus respectfully requested.

AUTHORIZATION

Should any additional fees be deemed to be properly assessable in this application for the timely consideration of this response, the Commissioner is hereby authorized to charge any such additional fee(s), or to credit any overpayment, to Deposit Account No. 13-4500, Order No. 2710-4007US2. **A duplicate copy of this sheet is attached.**

CONCLUSION

In the event that the Examiner is of the opinion that further discussion of the application would be helpful, the Examiner is hereby respectfully requested to telephone the applicants' undersigned representative at (212) 415-8751 and is assured of full cooperation in an effort to advance the prosecution of the instant application and claims to allowance.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Date: March 25, 2002

By:

Leslie A. Serunian

Leslie A. Serunian

Registration No. 35,353

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.

345 Park Avenue

New York, New York 10154-0053

Telephone: (212) 758-4800

Facsimile: (212) 751-6849

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MORGAN & FINNEGAN, L.L.P.

By: Leslie Serunian
Leslie A. Serunian
Registration No. 35,353

Date: March 25, 2002

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053
Telephone: (212) 758-4800
Facsimile: (212) 751-6849